

1 Howard Kaloogian, State Bar No. 118954  
2 Lowell Robert Fuselier, State Bar No. 14070  
3 David T. Hayek, State Bar No. 144116  
4 Kaloogian & Fuselier LLP  
5 2382 Faraday Avenue, Suite 130  
6 Carlsbad, California 92008  
7 Tel. 760-522-1802  
8 Fax. 760-431-1116  
9 **Attorneys for Plaintiffs**

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT**  
**Southern District of California**

11 SAN DIEGO MINUTE MEN

12 Plaintiff,

13 vs.

14 DALE BONNER in his Official Capacity  
15 as Agency Director, Business,  
16 Transportation and Housing Agency;  
17 WILL KEMPTON in his Official  
18 Capacity as CalTrans Director; PEDRO  
19 ORSO-DELGADO in his Official  
20 Capacity as Caltrans District Director and  
21 DOES 1 through 50,

22 Defendants.

Case Number: 08CV0210 WQH [RBB]

PLAINTIFF'S *EX PARTE* MOTION FOR  
ORDER CONTINUING HEARING AND  
BRIEFING SCHEDULE ON 1) PLAINTIFF'S  
MOTION FOR PRELIMINARY INJUNCTION  
[Doc # 13] AND 2) DEFENDANT'S MOTION  
TO DISMISS [Doc #19]

20 **TO EACH PARTY AND RESPECTIVE COUNSEL OF RECORD HEREIN:**

21  
22 Plaintiff, SAN DIEGO MINUTEMEN, hereby moves the Court for an Order, *ex parte* to  
23 continue the hearing on Plaintiff's Motion for Preliminary Injunction [Doc #13] and  
24 Defendants' Motion to Dismiss [Doc #19] for a period of 14 days, or as soon thereafter as  
25 the matter may be heard by this Court, with a commensurate continuance in the briefing  
26 schedule, as a result of Defendant Pedro Orso-Delgado's inability and failure to appear for  
27 deposition as Ordered by this Court (Brooks, Magistrate)[Doc #10, Doc#22] for reasons of  
28 health.

1 This motion is made on the grounds that this Court has already determined that good cause  
2 exists for Plaintiff taking the deposition of Mr. Orso-Delgado [Doc #22] and that Mr. Orso-  
3 Delgado's unavailability is beyond the control of Plaintiff and Plaintiff should not be  
4 prejudiced thereby by requiring Plaintiff to file papers with respect to the pending motions  
5 without the benefit of Mr. Orso-Delgado's deposition.  
6

7 This motion is based on the instant application and the accompanying Declaration of  
8 Lowell Robert Fuselier, Esq. in support of the instant application, which is incorporated  
9 herein by this reference as though fully set forth at length hereat.  
10

### 11 CONCLUSION

12

13 For the reasons set forth above and in the accompanying papers, Plaintiff asks the Court  
14 to grant the relief requested herein.  
15

16 DATED: March 20, 2008  
17

18 /s/ L. Robert Fuselier  
19 Lowell Robert Fuselier, Esq.  
20 David T. Hayek, Esq.  
21 Kaloogian & Fuselier, LLP  
22 Attorneys for Plaintiff  
23  
24  
25  
26  
27  
28